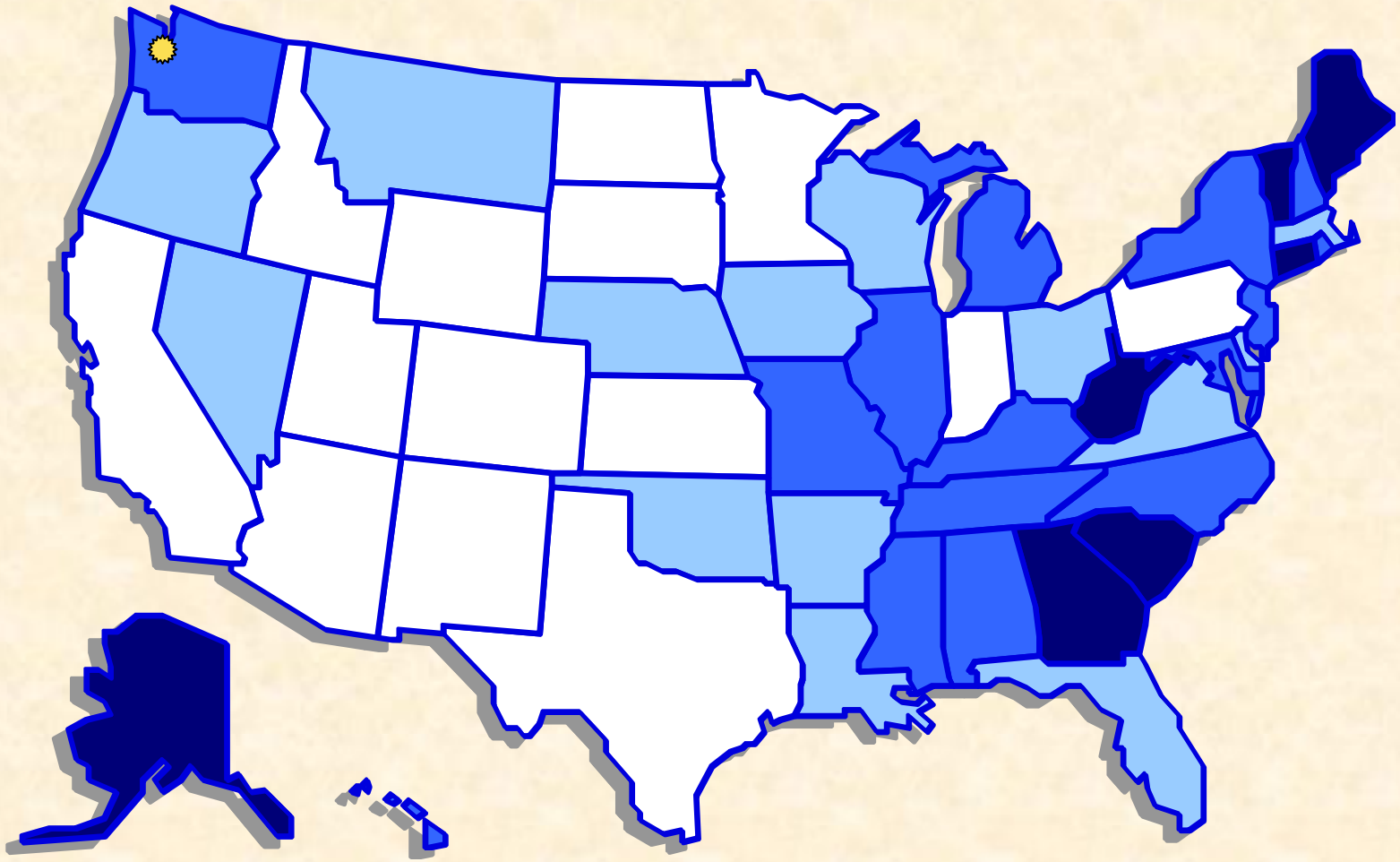
National CON Perspective and Experience

"Key State" Comparisons

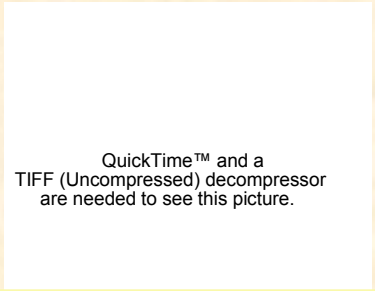


in acknowledgement of and appreciation for
all of the Certificate of Need programs in the United States

Thomas R. Piper

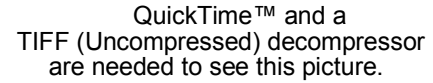
Principal, MacQuest Consulting

a presentation to the
Washington State CON Task Force
1:15 pm, Tuesday, January 3, 2005



Comparisons of Effectiveness

Definition of "effectiveness":
a balance between the production of desired **results**
and the capacity of the production **assets** . . .
these habits could become the
"basis of a person's character,
creating an empowering center of
correct maps from which an individual
could effectively solve problems,
maximize opportunities, and
continually learn and
integrate other principles in
an upward spiral of growth."



QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

Covey's View of Effectiveness

- Be Proactive
- Begin with the End in Mind
- Put First Things First
- Think Win/Win
- Seek First to Understand,
  Then to Be Understood
- Synergize
- Sharpen the Saw

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. . . effectiveness is relative . . .

CON Elements of Effectiveness

- **Who** (the CON decision-makers)
- **How** (the process of decision making)
- **What** (factors considered in making the decision)
- **When** (decision making timeframes and considerations)
- **Where** (venues and methods for decision making)
- **Why** (rationale and impact for decisions)

The CON Matrix of

2005 Relative Scope and Review Thresholds: CON Regulated Services by State

(this information is summarized from the 2005 National Directory of Health Planning, Policy and Regulatory Agencies, the fifteenth edition published by the American Health Planning Association, also see map)

compiled by Thomas R. Piper
Missouri CON program
Jefferson City, MO
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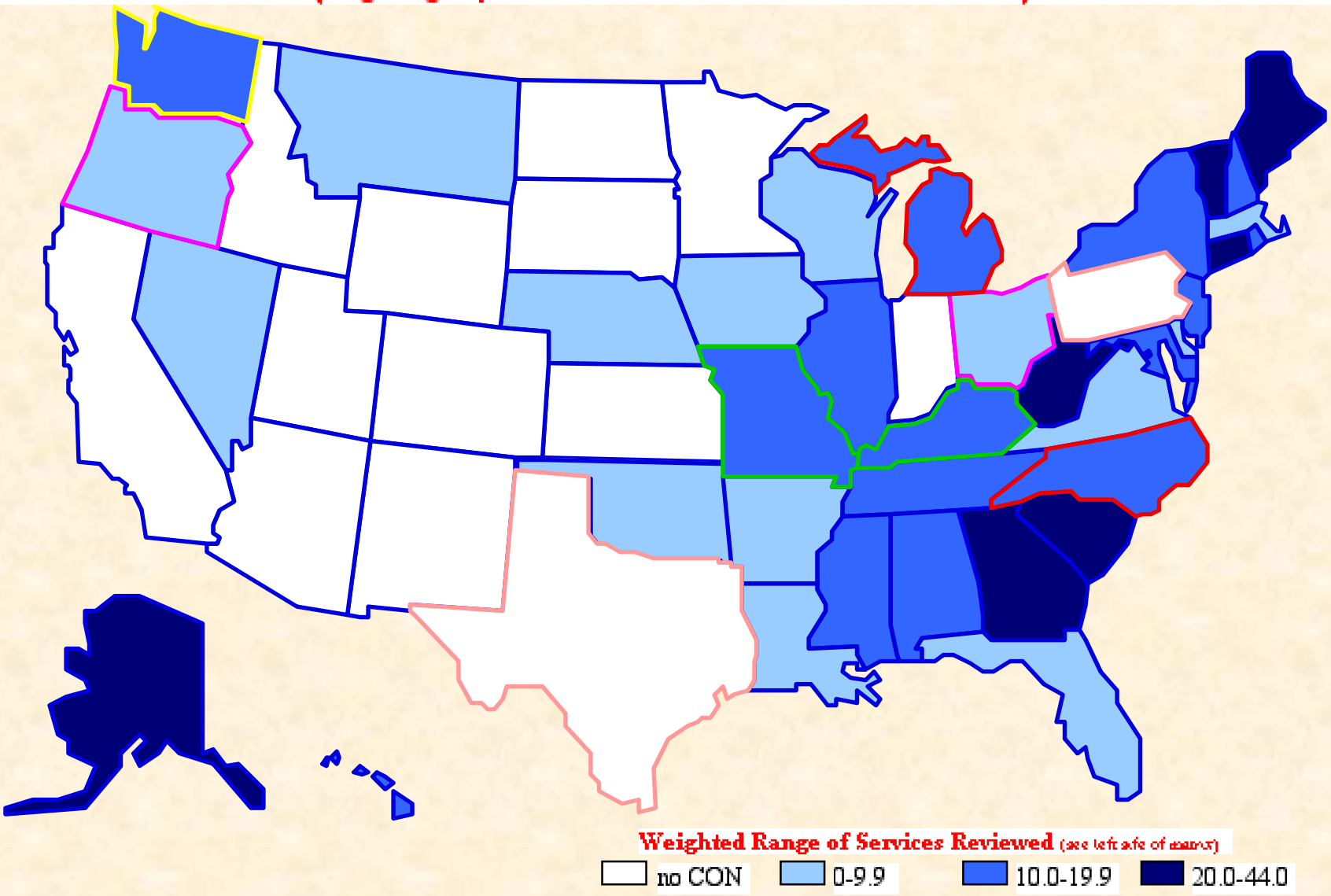
$ nrsg hm/hosp

Rank (no. of svcs. x weight)	Categories	Acute Care	Air Ambulance	Amb Surg Ctrs	Burn Care	Business Cmptrs	Cardiac Cath.	CT Scanners	Gamma Knives	Home Hlth	ICF/MR	Lithotripsy	Long Term Care	Med Off Bldg	Mobile Hi Tech	MRI Scnrs	Neo-ntl Int Care	Obstetric Svcs	Open Heart Svcs	Organ Transplnt	PET Scnrs	Psychiatric Svcs	Rad Therapy	Rehab	Renal Dialysis	Res Care Fac	Subacute	Substance Abuse	Swing Beds	Ultra-sound	Other (items not otherwise covered)	Count (no. of svcs.)	Reviewability Thresholds: Capital	Med Eqpt	New Svc	Weight
28.8	Connecticut	■	■	■	■	■	■	■	■			■	■	■	■	■	■	■	■	■	■	■	■	■				■	■	■		24	1,000,000	400,000	0	1.2
26.0	Alaska	■	■	■	■		■	■	■	■		■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	Assisted living	26	1,000,000	1,000,000	1,000,000	1.0
24.2	Georgia	■		■			■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■		■	■	■				22	1,322,151	734,695	any	1.1
22.5	Vermont	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■			25	3.0/1.5M	1,000,000	500,000	0.9
21.6	Maine	■	■	■	1		■	■	■		■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■	■		24	2,400,000	1,200,000	110,000	0.9
20.7	West Virginia	■		■	■		■			■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■		Behavioral hlth	23	2,000,000	2,000,000	23 svcs	0.9
20.0	South Carolina	■		■			■	■	■	■	■	■	■		■	■	■	■	■		■	■	■	■			■	■				20	2,000,000	800,000	1,000,000	1.0
18.4	North Carolina	■	■	■	■		■		■	■	■	■	■		■	■	■		■	■	■	■	■	■	■	■		■			IC & others	23	2,000,000	750,000	n/a	0.8
17.0	Mississippi	■		■			■		■	■	■	■	■			■			■		■	■	■	■	■			■	■			17	2,000,000	1,500,000	any	1.0
16.8	Tennessee	■		■	■		■		■	■	■	■	■			■	■	■	■		■	■	■	■			■	■	■		hospice, meth	21	2,000,000	1,500,000	any beds	0.8
16.8	Dist. of Columbia	■	■	■			■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■			24	2,500,000	1,500,000	600,000	0.7
16.0	Kentucky	■		■			■		■	■	■	■	■		■	■	■		■	■	■	■	■	■		■	■				Mobile svcs	20	1,951,612	1,951,612	n/a	0.8
15.2	Rhode Island	■		■			■	■	■				■		■	■	■	■	■	■	■	■	■	■			■	■	■			19	2,000,000	1,000,000	750,000	0.8
15.0	New York	■		■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■		25	3,000,000	3,000,000	any	0.6
15.0	Hawaii	■	■	■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■			25	4,000,000	1,000,000	any	0.6
14.4	Maryland	■		■	■		■			■	■	■	■			■	■	■	■			■		■	■		■	■			fed. swing bed	16	1,600,000	n/a	any	0.9
14.4	Michigan	■	■	■			■	■	■			■	■		■	■	■				■		■						■		Hosp & Surg	18	2,500,000	any	any clin.	0.8
12.8	Washington	■		■	■		■			■			■				■	■	■	■		■		■	■		■		■		Hospice	16	var. by svc.	n/a	any	0.8
12.6	New Hampshire	■		■			■	■				■	■		■	■			■		■	■	■	■				■				14	1,952,870	400,000	any	0.9
12.1	New Jersey	■			■		■			■	■		■				■		■	■		■		■								11	1,000,000	1,000,000	any	1.1
11.4	Alabama	■	■	■			■		■	■			■				■	■	■	■		■	■	■	■			■	■	■	ESRD & ALC	19	4,108,000	2,054,000	any	0.6
10.4	Missouri						■	■	■		■	■	■		■	■					■		■		■	■					New hosp.	13	0.6M/1.0M	0.4M/1.0M	1,000,000	0.8
9.0	Illinois	■		■			■				■		■	■			■	■	■	■	■	■	■	■			■		■		Other	18	6,732,798	6,425,245	any	0.5
8.1	Iowa	■		■			■				■		■						■	■	■		■									9	1,500,000	1,500,000	500,000	0.9
8.0	Virginia	■		■			■	■	■		■	■	■		■	■	■	■	■	■	■	■	■	■				■			MRI, SPECT	20	5,000,000	n/a	n/a	0.4
7.0	Oklahoma										■		■								■						■				psych. chem.	5	500,000	n/a	any beds	1.4
6.3	Montana			■						■	■		■											■				■	■			7	1,500,000	n/a	150,000	0.9
6.3	Florida	■									■		■				■			■		■					■	■			Hospice	9	none	none	none	0.7
6.0	Arkansas									■	■		■								■					■						5	500,000	n/a	n/a	1.2
4.8	Massachusetts		■	■					■		■	■	■			■	■		■	■	■	■	■	■				■			ECMO	16	12,004,549	1,280,485	all	0.3
4.8	Delaware	■		■			■					■	■								■		■								Birthing ctrs.	8	5,000,000	5,000,000	n/a	0.6
4.4	Wisconsin										■		■														■				Others	4	1,000,000	800,000	any LTC	1.1
3.5	Nevada	■		■							■		■											■			■	■				7	2,000,000	n/a	n/a	0.5
2.4	Oregon												■															■				2	any LTC/hs	n/a	LTC/hsp	1.2
0.5	Ohio												■																			1	2M renov	n/a	n/a	0.5
0.4	Nebraska												■											■								2	n/a	n/a	LTC >10%	0.2
0.4	Louisiana										■		■																			2	n/a	n/a	LTC/MR	0.2

Disclaimer. Rank order relates to volume of items reviewed, NOT intensity of analysis or conclusions which are based on Criteria and Standards and decisions

Source. Updated January 19, 2005, using most recent information available

a Map of the
2005 Relative Scope and Review Thresholds: CON Regulation by State
(a geographic illustration of the CON matrix)



WHO: the CON Decision-Makers

- **The Buck Stops Where . . .**
  - certificate of need analyst
  - department head
  - commission
  - context *(organizational location of decision-maker)*
- **Ex parte Contact** ***("from (by or for) one party")***
  - influencing vs. educating
  - competitive vs. cooperative interests
- **Process Advisors**
  - local planning agencies (HSAs, zoning, etc.)
  - business groups/associations
  - other state agencies (Medicaid, licensing, etc.)

HOW: the Process of Decision Making

- **State Health Plan** *(aka Strategic Plan)*
  - comprehensive perspective
  - vision of the future *(what should or could be)*
- **Medical Facilities Plan** *(criteria and standards)*
  - appendix to or subset of State Health Plan
  - definitive analytical tool for proposal evaluation
  - CON rules and regulations
  - measurable performance guidelines *(max. & min.)*
- **Health Policy Statements** *(governor, legislature, other)*
- **Staffing** *(expertise of the analysts)*

WHAT: Decision Making Factors

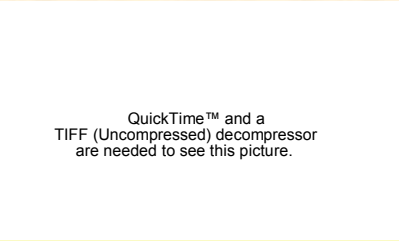
- **Scope and Threshold for Review**
  - array of facilities and services
  - level of detail to be considered
- **Community Need**
  - population-based methodologies
  - utilization of existing and proposed services
  - service area
- **Financial Feasibility**
  - comparative cost of proposal
  - projected cash flow and sources
  - anticipated financing charges

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

WHAT: Decision Making Factors *(cont'd.)*

- **Alternatives Considered**
- **Uncompensated Care**
  - fair share of charity care and write-offs
  - safety net responsibilities
- **Character and competence of applicant**
  - past performance at other locations
  - credentials and experience in related services
  - other business and ethical considerations

. . . similar to a banker's business plan requirements . . .



WHAT: Decision Making Factors *(cont'd.)*

- **Community Input**
  - public hearings
  - community visits and meetings
  - focus groups, surveys, assessments
- **Special Considerations**
  - barriers to access (geographic, cultural, other)
  - education and training programs
  - clinical trials and testing
  - special populations
- **Conditions**
  - monitoring and reporting utilization
  - relationships and affiliations

WHEN: Decision Making Timeframes

- **Individual Review Tracks**
  - stand-alone processing with overlapping reviews
- **Batch Processing by Type**
  - competitive applications for similar services
  - RFP-type proposals responding to Plan
- **Grouping by Review Cycle**
  - calendar-based fixed decision date schedules
  - full vs. expedited reviews
- **Post-Decision Monitoring**
  - change in scope of service
  - cost overruns

WHERE: Decision Making Venues

- **Judicial-like Hearings**
  - evidence-driven presentations
  - cross-examination by interested parties
- **Public Meeting Format**
  - solicitation of public opinion and concerns
  - response to questions and inquiries
- **Electronic vs. Paper Processing**
  - use of computer templates and forms
  - submission of applications via CD/DVD/Internet
- **Negotiations**
  - cooperative attempts among competing interests
  - modification of proposals in size, scope, location, other

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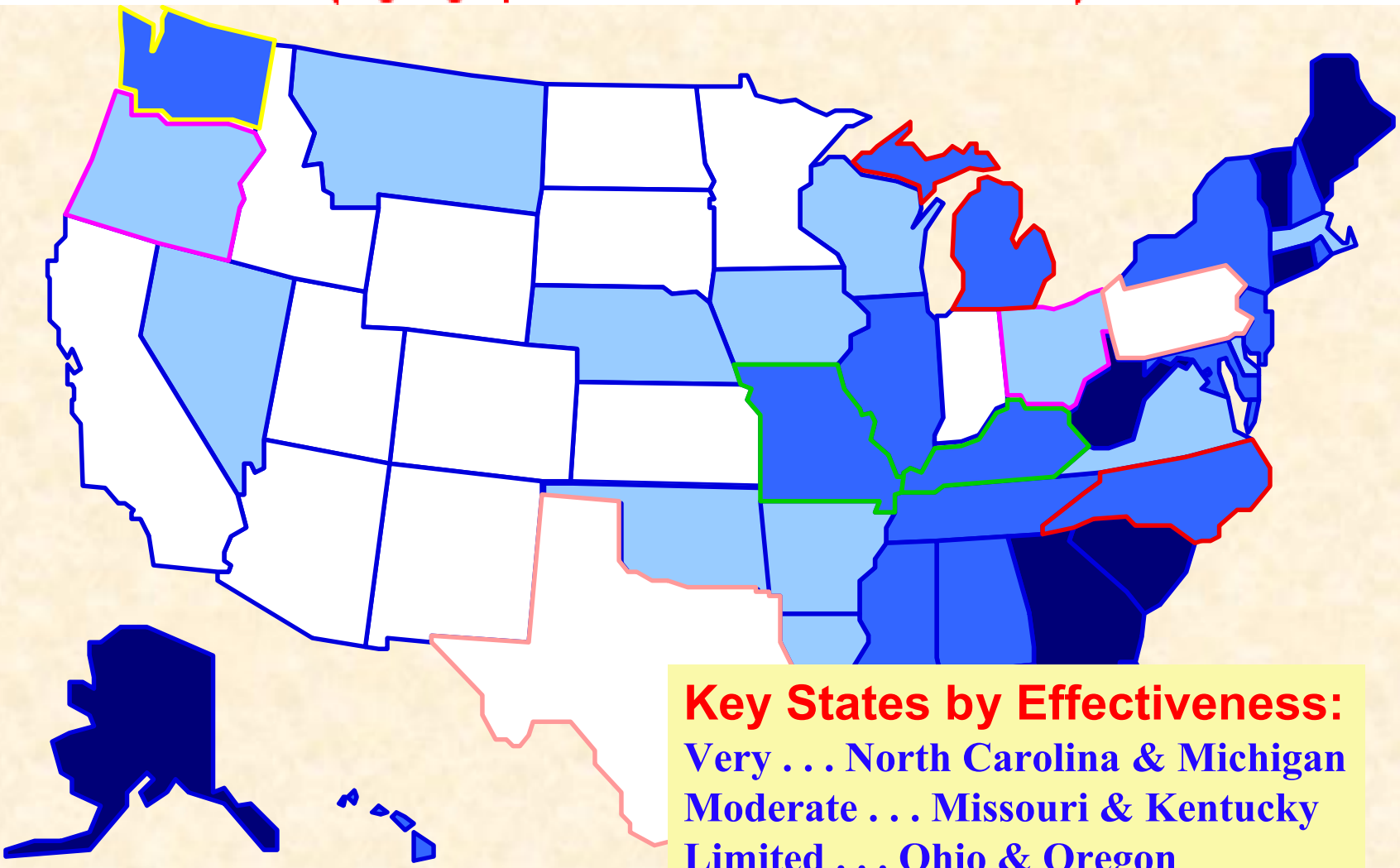

Key States by Effectiveness:

Very . . . North Carolina & Michigan
Moderate . . . Missouri & Kentucky
Limited . . . Ohio & Oregon
Not . . . Texas & Pennsylvania

The CON Matrix of

2005 Relative Scope and Review Thresholds: CON Regulated Services by State

(this information is summarized from the 2005 National Directory of Health Planning, Policy and Regulatory Agencies, the fifteenth edition published by the American Health Planning Association, also see map)

compiled by Thomas R. Piper
Missouri CON program
Jefferson City, MO
573-751-6403

Rank (no. of svcs. x weight)	Categories	Acute Care	Air Ambulance	Amb Surg Ctrs	Burn Care	Business Cmptrs	Cardiac Cath.	CT Scanners	Gamma Knives	Home Hlth	ICF/MR	Lithotripsy	Long Term Care	Med Off Bldg	Mobile Hi Tech	MRI Scnrs	Neo-ntl Int Care	Obstetric Svcs	Open Heart Svcs	Organ Transplnt	PET Scnrs	Psychiatric Svcs	Rad Therapy	Rehab	Renal Dialysis	Res Care Fac	Subacute	Substance Abuse	Swing Beds	Ultra-sound	Other (items not otherwise covered)	Count (no. of svcs.)	$ nrsg hm/hosp	Reviewability Thresholds: Capital	Med Eqpt	New Svc	Weight
28.8	Connecticut	■	■	■	■	■	■	■	■			■	■	■	■	■	■	■	■	■	■	■	■	■				■	■	■		24		1,000,000	400,000	0	1.2
26.0	Alaska	■	■	■	■		■	■	■	■		■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	Assisted living	26		1,000,000	1,000,000	1,000,000	1.0
24.2	Georgia	■		■			■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■		■	■	■				22		1,322,151	734,695	any	1.1
22.5	Vermont	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■			25		3.0/1.5M	1,000,000	500,000	0.9
21.6	Maine	■	■	■	1		■	■	■		■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■	■		25		2,400,000	1,200,000	110,000	0.9
20.7	West Virginia	■		■	■		■			■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■		Bed avlb	2		2,000,000	2,000,000	23 svcs	0.9
20.0	South Carolina	■		■			■	■	■	■		■	■		■	■	■	■	■		■	■	■	■			■	■				20		2,000,000	800,000	1,000,000	1.0
18.4	North Carolina	■	■	■	■		■		■	■	■	■	■		■	■	■		■	■	■	■	■	■	■		■		■		& others	23		2,000,000	750,000	n/a	0.8
17.0	Mississippi	■		■			■		■	■	■	■	■			■			■		■	■	■	■	■							17		2,000,000	1,500,000	any	1.0
16.8	Tennessee	■		■	■		■		■	■	■	■	■			■	■	■			■	■	■	■				■			hospice, meth	21		2,000,000	1,500,000	any beds	0.8
16.8	Dist. of Columbia	■	■	■			■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■				■			24		2,500,000	1,500,000	800,000	0.7
16.0	Kentucky	■		■			■		■	■	■	■	■		■	■	■		■	■	■	■	■	■	■						Mobile svcs	20		1,951,612	1,951,612	n/a	0.8
15.2	Rhode Island	■		■			■	■	■				■		■	■	■	■	■	■	■	■	■	■			■	■	■			19		2,000,000	1,000,000	750,000	0.8
15.0	New York	■		■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■	■		25		3,000,000	3,000,000	any	0.6
15.0	Hawaii	■	■	■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■			25		4,000,000	1,000,000	any	0.6
14.4	Maryland	■		■	■		■		■	■		■	■			■	■	■	■	■	■	■	■	■			■	■			fed. swing bed	16		1,600,000	n/a	any	0.9
14.4	Michigan	■	■	■			■	■	■			■	■		■	■	■	■	■	■	■	■	■					■			Hosp & Surg	18		2,500,000	any	any clin.	0.8
12.8	Washington	■		■	■		■		■			■	■			■	■	■	■	■	■	■	■	■	■		■				Hospice	16		var. by svc.	n/a	any	0.8
12.6	New Hampshire	■		■			■	■				■	■		■	■					■	■	■	■				■				14		1,952,870	400,000	any	0.9
12.1	New Jersey	■			■		■			■	■		■						■	■		■		■								11		1,000,000	1,000,000	any	1.1
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9.0	Illinois	■		■			■			■	■	■	■				■	■	■	■	■	■	■	■			■		■		Other	18		6,732,798	6,425,245	any	0.5
8.1	Iowa	■		■			■			■	■	■	■						■			■	■									9		1,500,000	1,500,000	500,000	0.9
8.0	Virginia	■		■						■	■	■	■		■	■	■	■	■	■	■	■	■	■				■			MR, SPECT	20		5,000,000	n/a	n/a	0.4
7.0	Oklahoma										■		■									■					■				psych. chem.	5		500,000	n/a	any beds	1.4
6.3	Montana			■						■	■		■											■				■	■			7		1,500,000	n/a	150,000	0.9
6.3	Florida	■									■		■				■			■		■					■	■			Hospice	9		none	none	none	0.7
6.0	Arkansas									■	■		■									■				■						5		500,000	n/a	n/a	1.2
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4.8	Delaware	■		■			■					■	■								■		■								Birthing ctrs.	8		5,000,000	5,000,000	n/a	0.6
4.4	Wisconsin										■		■														■	■			Other	4		1,000,000	800,000	any LTC	1.1
3.5	Nevada	■		■							■		■											■			■	■				7		2,000,000	n/a	n/a	0.5
2.4	Oregon												■															■				2		any LTC/hs	n/a	LTC/hsp	1.2
0.5	Ohio												■																			1		2M renov	n/a	n/a	0.5
0.4	Nebraska												■											■								2		n/a	n/a	LTC >10%	0.2
0.4	Louisiana										■		■																			2		n/a	n/a	LTC/MR	0.2

broadly diverse regulation

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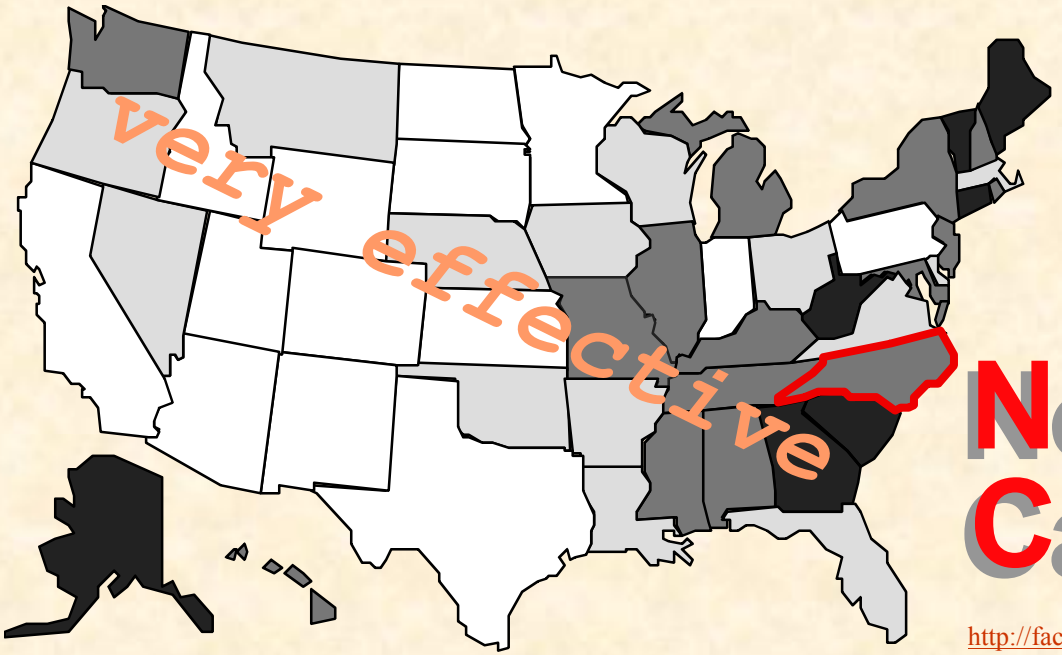
28.8	Connecticut	■	■	■	■	■	■	■	■			■	■	■	■	■	■	■	■	■	■	■	■	■				■	■	■		24	1,000,000	400,000	0	1.2
26.0	Alaska	■	■	■	■		■	■	■	■		■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	Assisted living	26	1,000,000	1,000,000	1,000,000	1.0
24.2	Georgia	■		■			■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■		■	■	■				22	1,322,151	734,695	any	1.1
22.5	Vermont	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■			25	3.0/1.5M	1,000,000	500,000	0.9
21.6	Maine	■	■	■	1		■	■	■		■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■	■		24	2,400,000	1,200,000	110,000	0.9
20.7	West Virginia	■		■	■		■			■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■		Behavioral hlth	23	2,000,000	2,000,000	23 svcs	0.9
20.0	South Carolina	■		■			■	■	■	■	■	■	■		■	■	■	■	■		■	■	■	■			■	■				20	2,000,000	600,000	1,000,000	1.0
18.4	North Carolina	■	■	■	■		■		■	■	■	■	■		■	■	■		■	■	■	■	■	■	■	■		■			IC & others	23	2,000,000	750,000	n/a	0.8
17.0	Mississippi	■		■			■		■	■	■	■	■			■			■		■	■	■	■	■			■	■			17	2,000,000	1,500,000	any	1.0
16.8	Tennessee	■		■	■		■		■	■	■	■	■			■	■	■	■		■	■	■	■			■	■	■		hospice, meth	21	2,000,000	1,500,000	any beds	0.8
16.8	Dist. of Columbia	■	■	■			■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■			24	2,500,000	1,500,000	600,000	0.7
16.0	Kentucky	■		■			■		■	■	■	■	■		■	■	■		■	■	■	■	■	■		■	■				Mobile svcs	20	1,951,612	1,951,612	n/a	0.8
15.2	Rhode Island	■		■			■	■	■						■	■	■	■	■	■	■	■	■	■			■	■	■			19	2,000,000	1,000,000	750,000	0.8
15.0	New York	■		■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■		■	■	■		25	3,000,000	3,000,000	any	0.6
15.0	Hawaii	■	■	■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■			25	4,000,000	1,000,000	any	0.6
14.4	Maryland	■		■	■		■			■	■		■				■	■	■		■		■	■			■	■			fed. swing bed	16	1,600,000	n/a	any	0.9
14.4	Michigan	■	■	■			■	■	■			■	■		■	■			■	■	■	■	■					■			Hosp & Surg	18	2,500,000	any	any clin.	0.8
12.8	Washington	■		■	■		■			■			■				■	■	■	■	■	■	■	■	■		■	■	■		Hospice	16	var. by svc.	n/a	any	0.8
12.6	New Hampshire	■		■			■	■				■	■		■	■			■		■	■	■	■			■					14	1,952,870	400,000	any	0.9
12.1	New Jersey	■			■		■			■	■		■				■		■	■		■		■								11	1,000,000	1,000,000	any	1.1
11.4	Alabama	■	■	■			■		■	■			■				■	■	■	■		■	■	■	■			■	■	■	ESRD & ALC	19	4,108,000	2,054,000	any	0.6
10.4	Missouri						■	■	■		■	■	■		■	■					■		■		■	■					New hosp.	13	0.6M/1.0M	0.4M/1.0M	1,000,000	0.8
9.0	Illinois	■		■			■				■		■	■			■	■	■	■	■	■	■	■			■		■		Other	18	6,732,798	6,425,245	any	0.5
8.1	Iowa	■		■			■				■		■						■	■	■		■									9	1,500,000	1,500,000	500,000	0.9
8.0	Virginia	■		■			■	■	■		■	■	■		■	■	■	■	■	■	■	■	■	■					■		MR, SPECT	20	5,000,000	n/a	n/a	0.4
7.0	Oklahoma										■		■								■						■				psych. chem.	5	500,000	n/a	any beds	1.4
6.3	Montana			■						■	■		■											■					■	■		7	1,500,000	n/a	150,000	0.9
6.3	Florida	■									■		■				■			■		■					■	■			Hospice	9	none	none	none	0.7
6.0	Arkansas									■	■		■									■				■						5	500,000	n/a	n/a	1.2
4.8	Massachusetts		■	■					■		■	■	■			■	■		■	■	■	■	■	■				■			ECMO	16	12,004,549	1,280,485	all	0.3
4.8	Delaware	■		■			■					■	■								■		■								Bitting cts.	8	5,000,000	5,000,000	n/a	0.6
4.4	Wisconsin										■		■														■				Others	4	1,000,000	600,000	any LTC	1.1
3.5	Nevada	■		■							■		■											■			■	■				7	2,000,000	n/a	n/a	0.5
2.4	Oregon												■															■				2	any LTC/hs	n/a	LTC/hsp	1.2
0.5	Ohio												■																			1	2M renov	n/a	n/a	0.5
0.4	Nebraska												■											■								2	n/a	n/a	LTC >10%	0.2
0.4	Louisiana										■		■																			2	n/a	n/a	LTC/MR	0.2

Disclaimer. Rank order relates to volume of items reviewed, NOT intensity of analysis or conclusions which are based on Criteria and Standards and decisions

Source. Updated January 19, 2005, using most recent information available

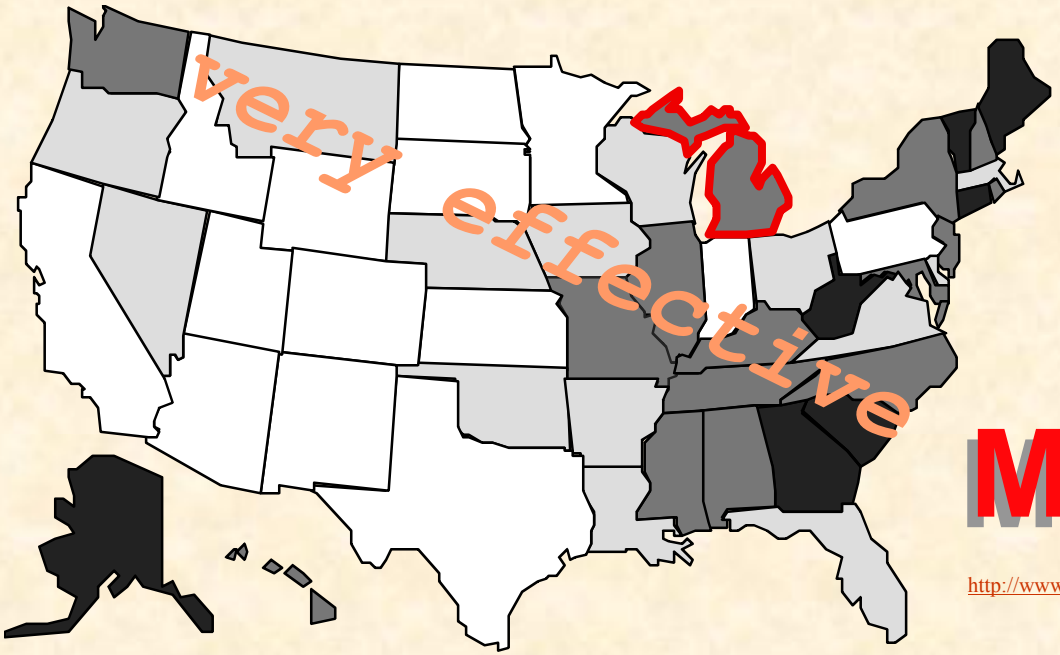


North Carolina

http://facility-services.state.nc.us/conpage.htm

Elements of Effectiveness:

- annually-updated detailed state health plan
  question is not “how many”, but rather “who best qualifies” to provide it.
- meticulous statutory clarity
  The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.
- intensive public input process *(SHCC hearings)*
- well-organized highly-structured traditionalist
- regionalized need methodology by service, decision by analyst



Michigan

http://www.michigan.gov/mdch/1,1607,7-132-2945_5106---,00.html

Elements of Effectiveness:

- extensive individual criteria and standards in key services like hospital and ambulatory surgery services *(do fewer better)*
- intensive business relationship with Economic Alliance
- strong hospital association support and medical cooperation
- well-organized well-staffed with broad expertise
  (extensive monitoring/ surveillance of projects after CON approval)
- localized need methodology for service areas
- online application process by March 2006

The CON Matrix of

2005 Relative Scope and Review Thresholds: CON Regulated Services by State

(this information is summarized from the 2005 National Directory of Health Planning, Policy and Regulatory Agencies, the fifteenth edition published by the American Health Planning Association, also see map)

compiled by Thomas R. Piper
Missouri CON program
Jefferson City, MO
573-751-6403

$ nrsg hm/hosp

Rank (no. of svcs. x weight)	Categories	Acute Care	Air Ambulance	Amb Surg Ctrs	Burn Care	Business Cmptrs	Cardiac Cath.	CT Scanners	Gamma Knives	Home Hlth	ICF/MR	Lithotripsy	Long Term Care	Med Off Bldg	Mobile Hi Tech	MRI Scnrs	Neo-ntl Int Care	Obstetric Svcs	Open Heart Svcs	Organ Transplnt	PET Scnrs	Psychiatric Svcs	Rad Therapy	Rehab	Renal Dialysis	Res Care Fac	Subacute	Substance Abuse	Swing Beds	Ultra-sound	Other (items not otherwise covered)	Count (no. of svcs.)	Reviewability Thresholds: Capital	Med Eqpt	New Svc	Weight
28.8	Connecticut	■	■	■	■	■	■	■	■			■	■	■	■	■	■	■	■	■	■	■	■	■				■	■	■		24	1,000,000	400,000	0	1.2
26.0	Alaska	■	■	■	■		■	■	■	■		■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	Assisted living	26	1,000,000	1,000,000	1,000,000	1.0
24.2	Georgia	■		■			■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■		■	■	■				22	1,322,151	734,695	any	1.1
22.5	Vermont	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■			25	3.0/1.5M	1,000,000	500,000	0.9
21.6	Maine	■	■	■	1		■	■	■		■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■	■		24	2,400,000	1,200,000	110,000	0.9
20.7	West Virginia	■		■	■		■			■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■		Behavioral hlth	23	2,000,000	2,000,000	23 svcs	0.9
20.0	South Carolina	■		■			■	■	■	■	■	■	■		■	■	■	■	■		■	■	■	■			■	■				20	2,000,000	800,000	1,000,000	1.0
18.4	North Carolina	■	■	■	■		■		■	■	■	■	■		■	■	■		■	■	■	■	■	■	■	■		■			IC & others	23	2,000,000	750,000	n/a	0.8
17.0	Mississippi	■		■			■		■	■	■	■	■			■			■		■	■	■	■	■			■	■			17	2,000,000	1,500,000	any	1.0
16.8	Tennessee	■		■	■		■		■	■	■	■	■			■	■	■	■		■	■	■	■			■	■	■		hospice, meth	21	2,000,000	1,500,000	any beds	0.8
16.8	Dist. of Columbia	■	■	■			■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■			24	2,500,000	1,500,000	600,000	0.7
16.0	Kentucky	■		■			■		■	■	■	■	■		■	■	■		■	■	■	■	■	■	■	■	■				Mobile svcs	20	1,951,612	1,951,612	n/a	0.8
15.2	Rhode Island	■		■			■	■	■				■		■	■	■	■	■	■	■	■	■	■			■	■	■			19	2,000,000	1,000,000	750,000	0.8
15.0	New York	■		■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■		■	■	■		25	3,000,000	3,000,000	any	0.6
15.0	Hawaii	■	■	■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■			25	4,000,000	1,000,000	any	0.6
14.4	Maryland	■		■	■		■			■	■		■				■	■	■		■	■	■	■			■	■			fed. swing bed	16	1,600,000	n/a	any	0.9
14.4	Michigan	■	■	■			■	■	■			■	■		■	■	■		■	■	■		■					■			Hosp & Surg	18	2,500,000	any	any clin.	0.8
12.8	Washington	■		■	■		■			■			■				■	■	■		■		■	■	■		■		■		Hospice	16	var. by svc.	n/a	any	0.8
12.6	New Hampshire	■		■			■	■				■	■			■	■		■		■	■	■	■				■				14	1,952,870	400,000	any	0.9
12.1	New Jersey	■			■		■			■	■		■				■		■	■		■		■								11	1,000,000	1,000,000	any	1.1
11.4	Alabama	■	■	■			■		■	■			■				■	■	■	■		■	■	■	■			■	■	■	ESRD & ALC	19	4,108,000	2,054,000	any	0.6
10.4	Missouri						■	■	■		■	■	■		■	■						■		■	■	■					New hosp.	13	0.6M/1.0M	0.4M/1.0M	1,000,000	0.8
9.0	Illinois	■		■			■				■		■	■			■	■	■	■	■	■	■	■			■		■		Other	18	6,732,798	6,425,245	any	0.5
8.1	Iowa	■		■			■				■		■						■	■	■		■									9	1,500,000	1,500,000	500,000	0.9
8.0	Virginia	■		■			■	■	■		■	■	■		■	■	■	■	■	■	■	■	■	■					■		MRI, SPECT	20	5,000,000	n/a	n/a	0.4
7.0	Oklahoma										■		■									■					■				psych. chem.	5	500,000	n/a	any beds	1.4
6.3	Montana			■						■	■		■											■					■	■		7	1,500,000	n/a	150,000	0.9
6.3	Florida	■									■		■				■			■		■					■	■			Hospice	9	none	none	none	0.7
6.0	Arkansas									■	■		■									■				■						5	500,000	n/a	n/a	1.2
4.8	Massachusetts		■	■					■		■	■	■			■	■		■	■	■	■	■	■				■			ECMO	16	12,004,549	1,280,485	all	0.3
4.8	Delaware	■		■			■					■	■								■		■								Birthing ctrs.	8	5,000,000	5,000,000	n/a	0.6
4.4	Wisconsin										■		■														■				Others	4	1,000,000	800,000	any LTC	1.1
3.5	Nevada	■		■							■		■											■			■	■				7	2,000,000	n/a	n/a	0.5
2.4	Oregon												■															■				2	any LTC/hs	n/a	LTC/hsp	1.2
0.5	Ohio												■																			1	2M renov	n/a	n/a	0.5
0.4	Nebraska												■											■								2	n/a	n/a	LTC >10%	0.2
0.4	Louisiana										■		■																			2	n/a	n/a	LTC/MR	0.2

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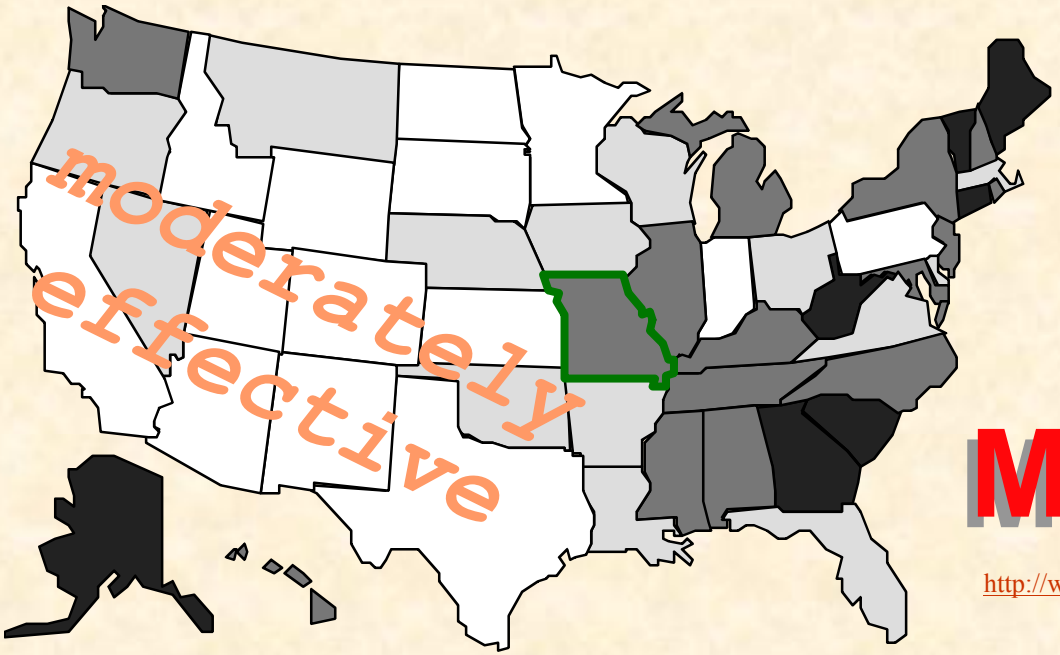
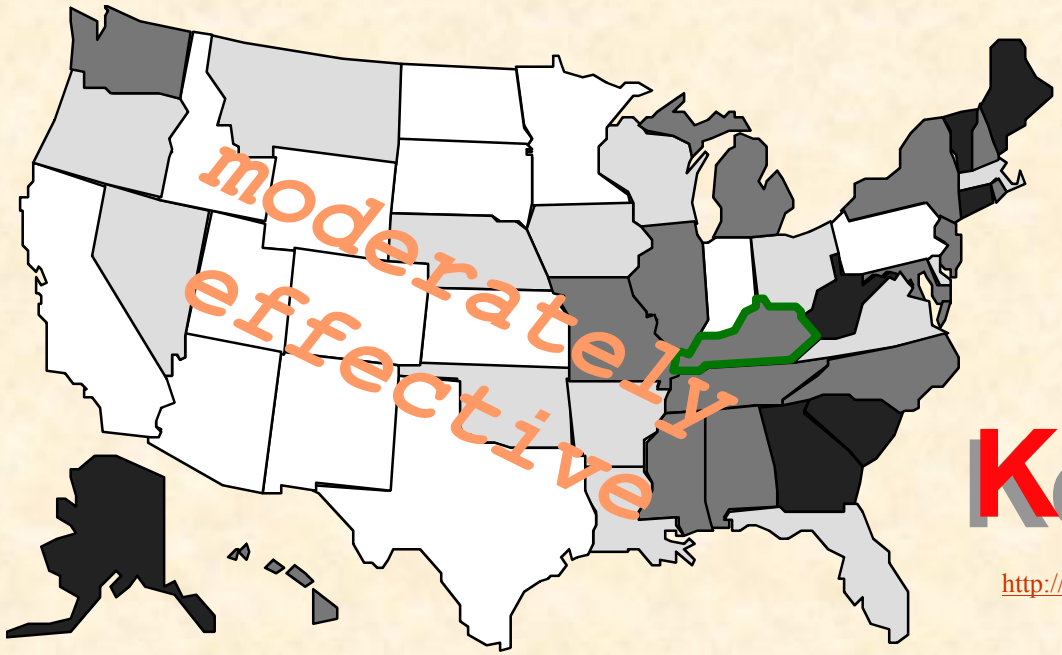


Missouri

http://www.dhss.state.mo.us/con/

Elements of Effectiveness:

- criteria and standards by rule *(covert planning with regulation)*
- extensive public input process *(ex parte contact allowed)*
- well-organized streamlined process *(fewer services since 2002)*
- service areas defined by applicant *(fixed 15-mile radius)*
- committee decision-maker composed of gov./legis. apptmts.
  (compromised by potential constitutional separation-of-powers debate)
- appropriate application fees *(not directed to agency operational use)*



Kentucky

http://chfs.ky.gov/ohp/con/

Elements of Effectiveness:

- draft state health plan held back
- two-year statewide moratorium
- regionalized need methodology
- recently raised thresholds and deregulated services
- located in Cabinet for Health and Family Services
- physician's office and hospital-MRI exemptions

CON Covered Facilities & Services

FACILITIES

- Hospitals and Hospital Beds
- Nursing Homes
- Personal Care Homes
- Ambulatory Surgical Centers
- Rehabilitation Agencies
- Adult Day Health Care
- ICFMR
- Etc…

SERVICES

- Home Health
- Hospice
- Ambulance
- MRI
- Megavoltage Radiation
- Cardiac Catheterization
- Organ Transplant
- Open Heart Surgery

Moratorium

- June 30, 2005, Governor Fletcher Issued Executive Order 2005-615
- Exceptions to the Moratorium Included:
  - Applications which qualify for nonsubstantive review; and
  - Applications to establish MRI's at hospitals or hospital owned facilities; and
  - Applications to alleviate emergencies.
- Current Moratorium Expires December 30, 2005

CON Tasks During the Moratorium

- State Health Plan
  - Carefully review **all** need criteria & methodologies
- Physicians Office Exemption
  - Recognize the evolution of the physicians office and the impact of emerging technology
  - Remain aware of the impact the POE has on other providers and insurers
  - Calculate cost implications to DMS, Employee Health Insurance, etc…if the POE is defined further

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26.0	Alaska	■	■	■	■		■	■	■	■		■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	Assisted living	26	1,000,000	1,000,000	1,000,000	1.0
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22.5	Vermont	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■			25	3.0/1.5M	1,000,000	500,000	0.9
21.6	Maine	■	■	■	1		■	■	■		■	■	■		■	■	■	■	■	■	■	■	■	■	■			■	■	■		24	2,400,000	1,200,000	110,000	0.9
20.7	West Virginia	■		■	■		■			■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■		Behavioral hlth	23	2,000,000	2,000,000	23 svcs	0.9
20.0	South Carolina	■		■			■	■	■	■	■	■	■		■	■	■	■	■		■	■	■	■			■	■				20	2,000,000	600,000	1,000,000	1.0
18.4	North Carolina	■	■	■	■		■		■	■	■	■	■		■	■	■		■	■	■	■	■	■	■	■		■			IC & others	23	2,000,000	750,000	n/a	0.8
17.0	Mississippi	■		■			■		■	■	■	■	■			■			■		■	■	■	■	■			■	■			17	2,000,000	1,500,000	any	1.0
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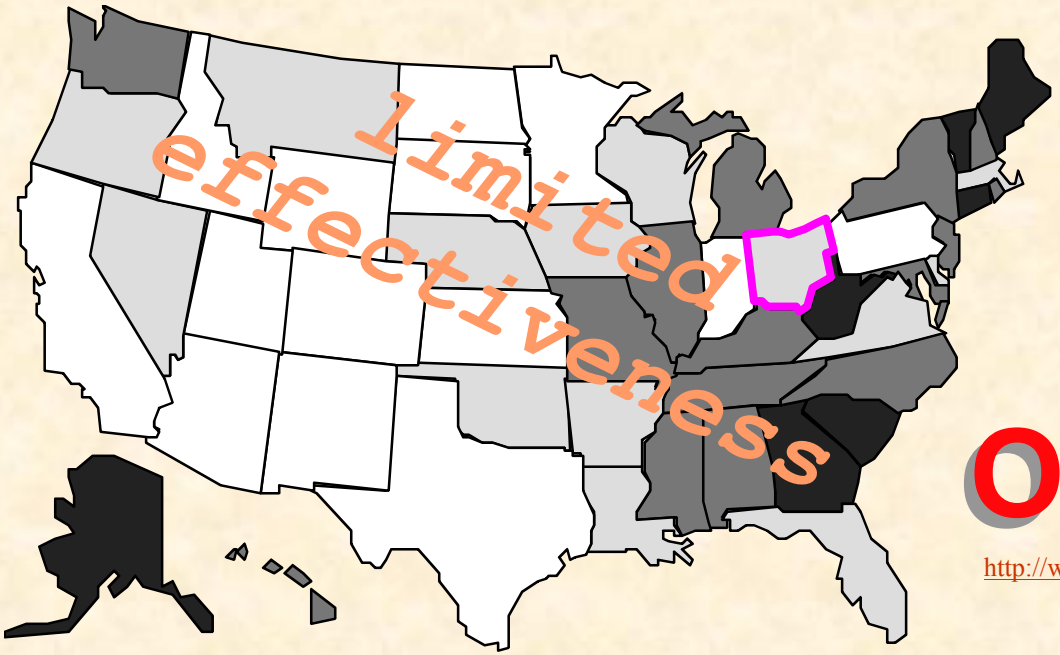
16.8	Dist. of Columbia	■	■	■			■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■			24	2,500,000	1,500,000	600,000	0.7
16.0	Kentucky	■		■			■		■	■	■	■	■		■	■	■		■	■	■	■	■	■		■	■				Mobile svcs	20	1,951,612	1,951,612	n/a	0.8
15.2	Rhode Island	■		■			■	■	■				■		■	■	■	■	■	■	■	■	■	■			■	■	■			19	2,000,000	1,000,000	750,000	0.8
15.0	New York	■		■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■		■	■	■		25	3,000,000	3,000,000	any	0.6
15.0	Hawaii	■	■	■	■		■	■	■	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■		■	■	■			25	4,000,000	1,000,000	any	0.6
14.4	Maryland	■		■	■		■			■	■		■				■	■	■		■		■	■			■	■			fed. swing bed	16	1,600,000	n/a	any	0.9
14.4	Michigan	■	■	■			■	■	■			■	■		■	■	■		■	■	■		■					■			Hosp & Surg	18	2,500,000	any	any clin.	0.8
12.8	Washington	■		■	■		■			■			■				■	■	■		■			■	■		■		■		Hospice	16	var. by svc.	n/a	any	0.8
12.6	New Hampshire	■		■			■	■				■	■		■	■			■		■	■	■	■				■				14	1,952,870	400,000	any	0.9
12.1	New Jersey	■			■		■			■	■		■				■		■	■		■		■								11	1,000,000	1,000,000	any	1.1
11.4	Alabama	■	■	■			■		■	■			■				■	■	■	■		■	■	■	■			■	■	■	ESRD & ALC	19	4,108,000	2,054,000	any	0.6
10.4	Missouri						■	■	■		■	■	■		■	■					■		■		■	■					New hosp.	13	0.6M/1.0M	0.4M/1.0M	1,000,000	0.8
9.0	Illinois	■		■			■				■		■	■			■	■	■	■	■	■	■	■	■		■		■		Other	18	6,732,798	6,425,245	any	0.5
8.1	Iowa	■		■			■				■		■						■	■	■		■									9	1,500,000	1,500,000	500,000	0.9
8.0	Virginia	■		■			■	■	■		■	■	■		■	■	■	■	■	■	■	■	■	■				■			MRI, SPECT	20	5,000,000	n/a	n/a	0.4
7.0	Oklahoma										■		■									■	■				■				psych. chem.	5	500,000	n/a	any beds	1.4
6.3	Montana			■						■	■		■											■				■	■			7	1,500,000	n/a	150,000	0.9
6.3	Florida	■									■		■				■			■		■					■	■			Hospice	9	none	none	none	0.7
6.0	Arkansas									■	■		■									■				■						5	500,000	n/a	n/a	1.2
4.8	Massachusetts		■	■					■		■	■	■			■	■		■	■	■	■	■	■				■			ECMO	16	12,004,549	1,280,485	all	0.3
4.8	Delaware	■		■			■					■	■								■		■								Birthing ctrs.	8	5,000,000	5,000,000	n/a	0.6
4.4	Wisconsin										■		■														■				Others	4	1,000,000	600,000	any LTC	1.1
3.5	Nevada	■		■							■		■											■			■	■				7	2,000,000	n/a	n/a	0.5
2.4	Oregon												■															■				2	any LTC/hs	n/a	LTC/hsp	1.2
0.5	Ohio												■																			1	2M renov	n/a	n/a	0.5
0.4	Nebraska												■											■								2	n/a	n/a	LTC >10%	0.2
0.4	Louisiana										■		■																			2	n/a	n/a	LTC/MR	0.2

Disclaimer. Rank order relates to volume of items reviewed, NOT intensity of analysis or conclusions which are based on Criteria and Standards and decisions

Source. Updated January 19, 2005, using most recent information available



Ohio

http://www.odh.ohio.gov/rules/final/f3701-12.aspx

Elements of Effectiveness:

- limited scope of review *(mostly long term care)*
- debilitating deregulation consequences
  (Status Report on Ohio After Deregulation From Certificate of Need
  http://www.bricker.com/publications/articles/533.asp)
- Letter of Intent process eliminated
- State Health Plan no longer in use

Ambulatory Surgery Facility Increase since Deregulation

	1995	2001
Ambulatory surgery facilities	31	186*

(many new ASFs are physician owned and operated**)

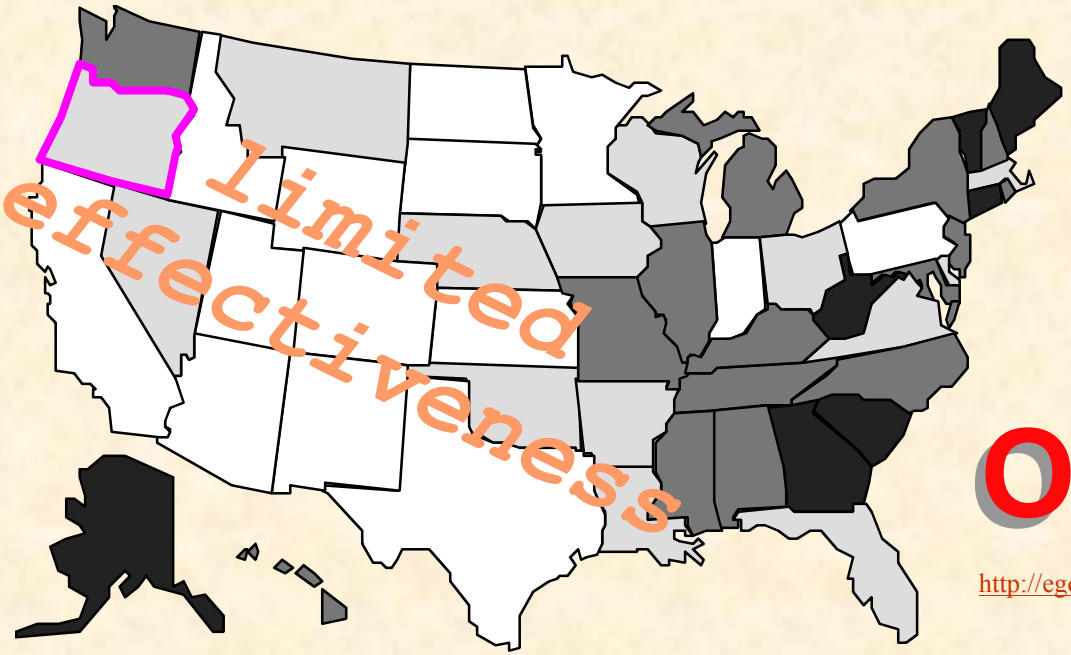
**about 30 are eye-surgery-only facilities*

***hidden effect in small communities: joint-ventures and hosp/phys adversity*

Diagnostic Imaging Increase since Deregulation

	1995	1999
Non-hospital-based		
Mobile or free-standing MRIs	23	126*
Hospital with in-house MRIs	35	almost all

**Notices of Intent filed for 65 more since then*

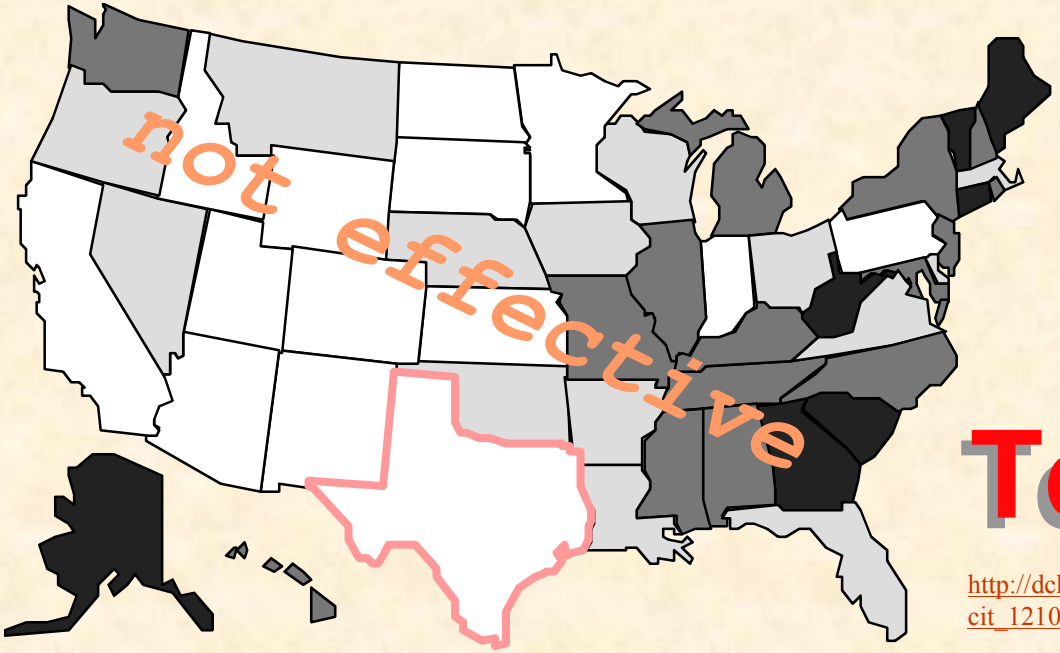


Oregon

http://egov.oregon.gov/DHS/ph/hsp/certneed/index.shtml

Elements of Effectiveness:

- neatly written statutes *(highlighted by what's NOT reviewed)*
- minimal services reviewed *(LTC and swing beds)*
- legislative attempt to expand into hospital services failed
- strong resistance from hospital and medical industry
- severely limited staffing *(two part-time)*

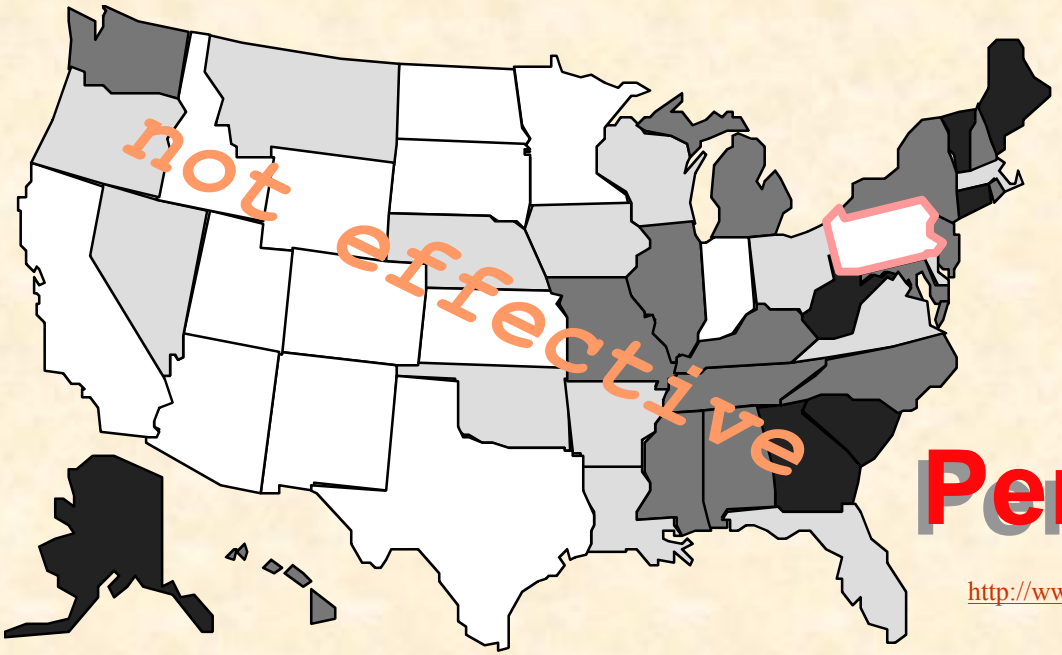


Texas

http://dch.georgia.gov/vgn/images/portal/cit_1210/50/38/41942260Texas_Deregulation_CON.pdf

Elements of Effectiveness:

- very low long-term care occupancy rates *(surplus capacity)*
- very large number of specialty hospitals
  (hospital association did study on "niche" hospitals)
- numerous attempts to reinstitute CON in legislature
- recent attempt to prohibit physician self-referrals



Pennsylvania

http://www.physiciansnews.com/cover/1204.html

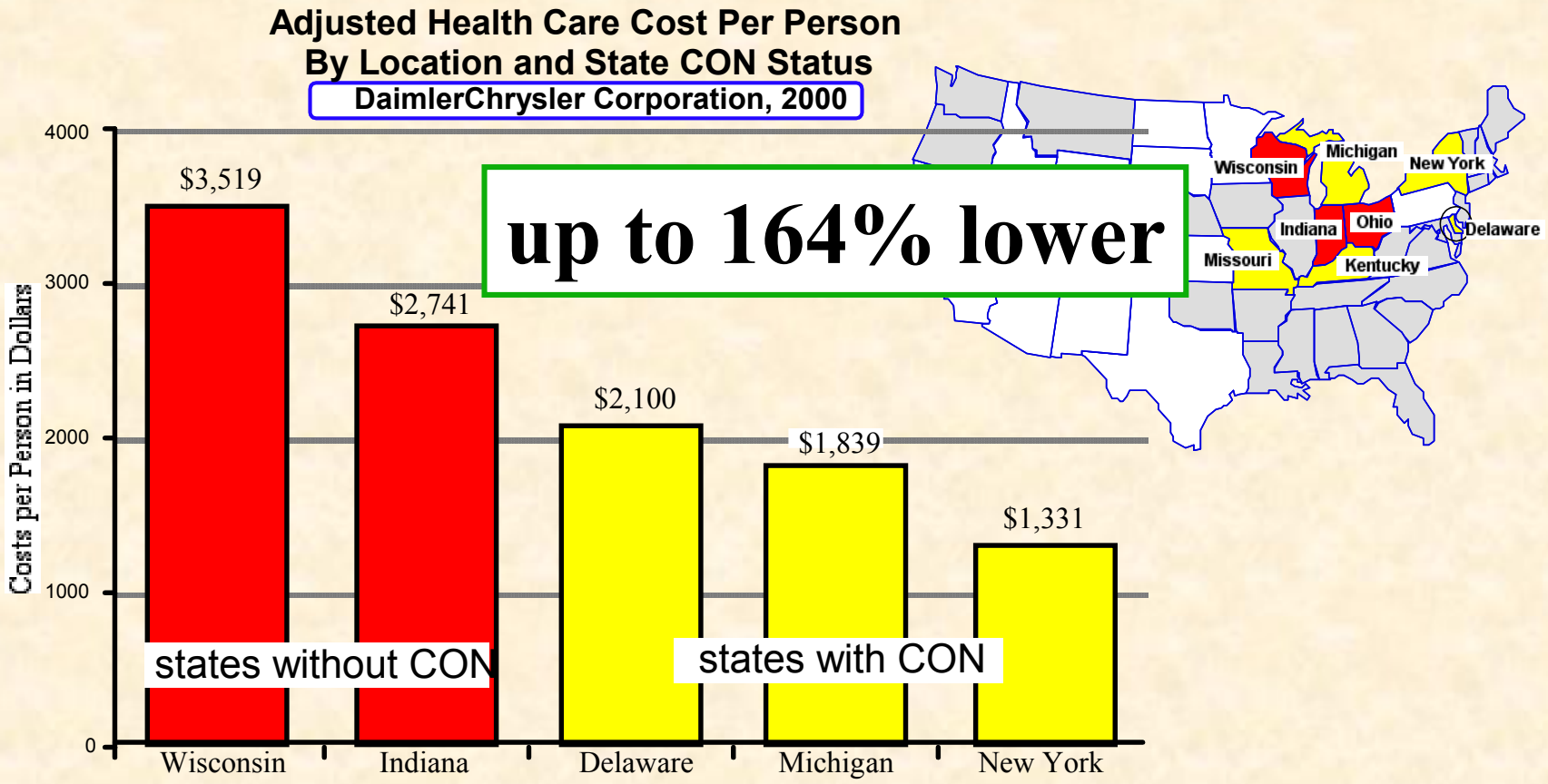
Elements of Effectiveness:

- 1996 accidental sunset of CON statutes *(exemption debate)*
- converted CON program to quality assessment in licensing
- concept of "value purchasing" failed
- attempts to reinstitute CON in 2005 almost succeeded
- "The proof is in the pudding." Pennsylvania health care has been functioning in a free market for eight years, and costs have soared, PA Rep. Phyllis Mundy says. Business groups agree. "Something's got to give," says Cliff Shannon, President of SMC Business Councils. Shannon contends the market alone is not enough because providers don't do a good enough job at regulating themselves and health insurers don't control utilization.

WHY: Rationale and Impact

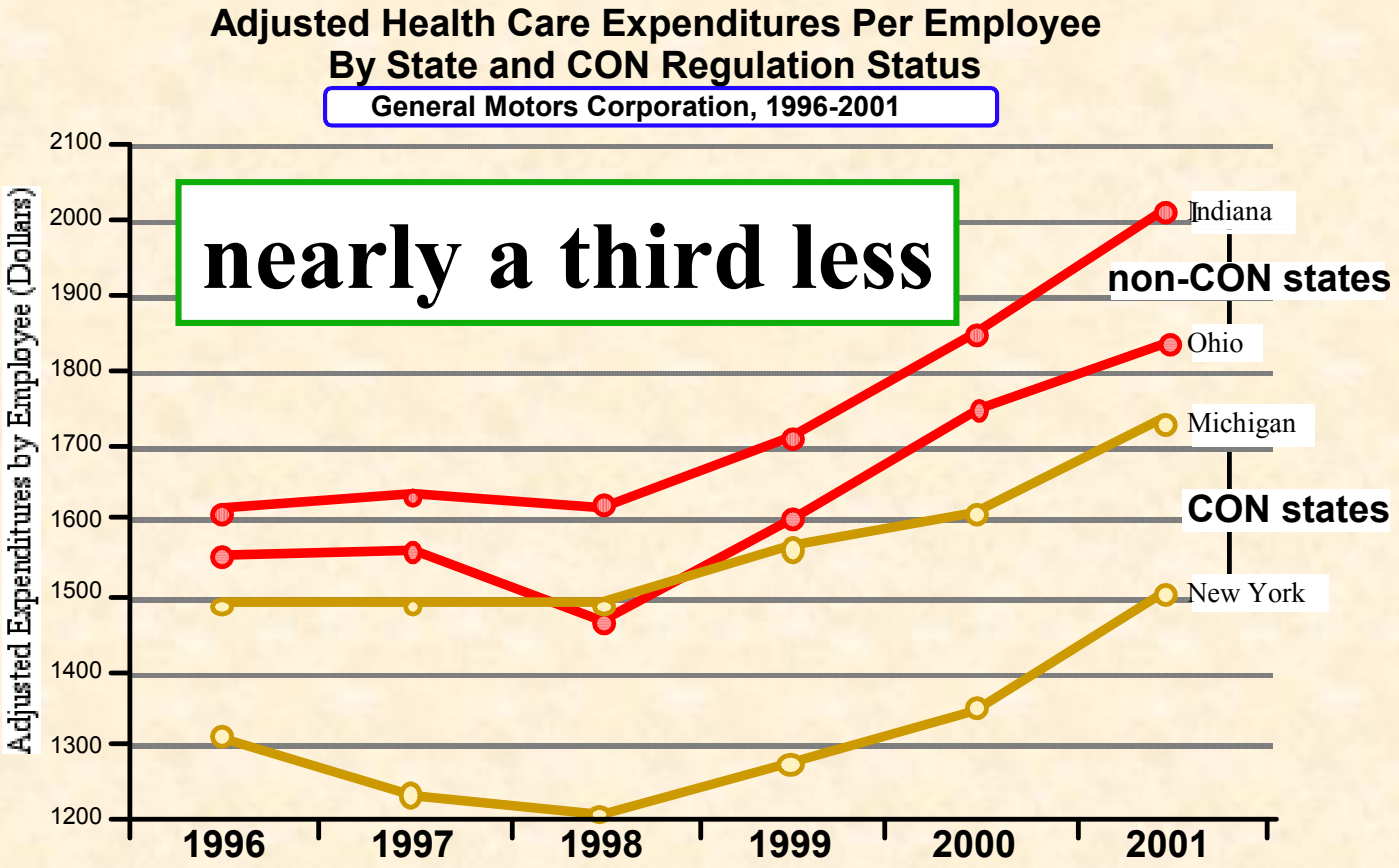
- The health care market is inherently imperfect.
- Health care is not, and should not be treated as, a commodity.
- The studies critical of CON cited by the FTC are not reliable.
- Empirical evidence & experience are ignored or treated dismissively.
- Health care is treated as a privilege.
- Real-life experience illustrates the value of planning and regulation . . .

Big-Three Automakers Health Care Costs
non-CON vs. CON states



CON states have lower health care costs than non-CON states!

Big-Three Automakers Health Care Costs
non-CON vs. CON states



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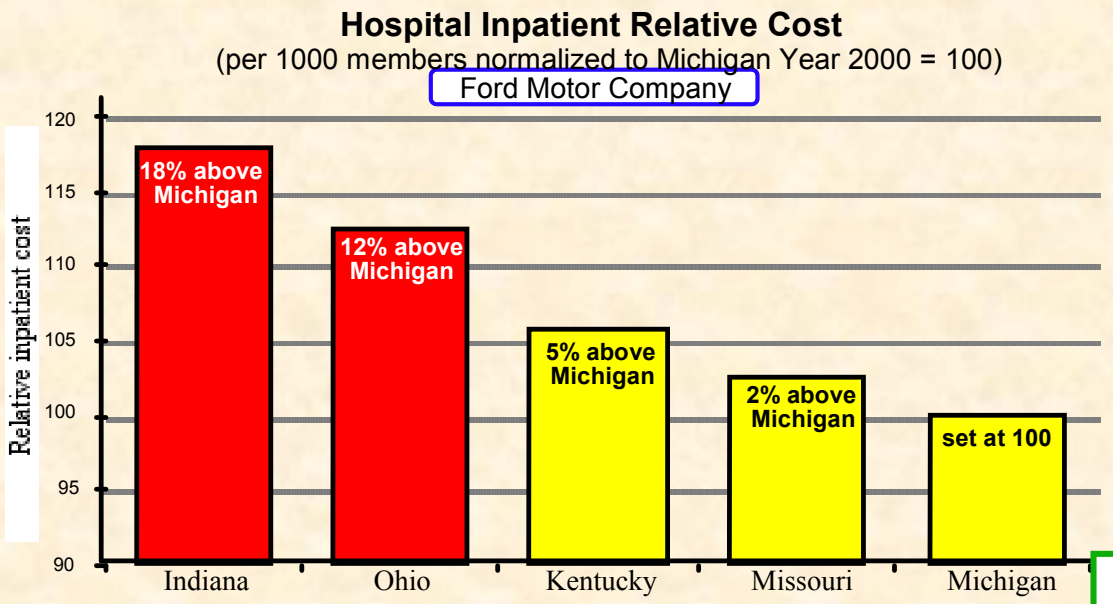
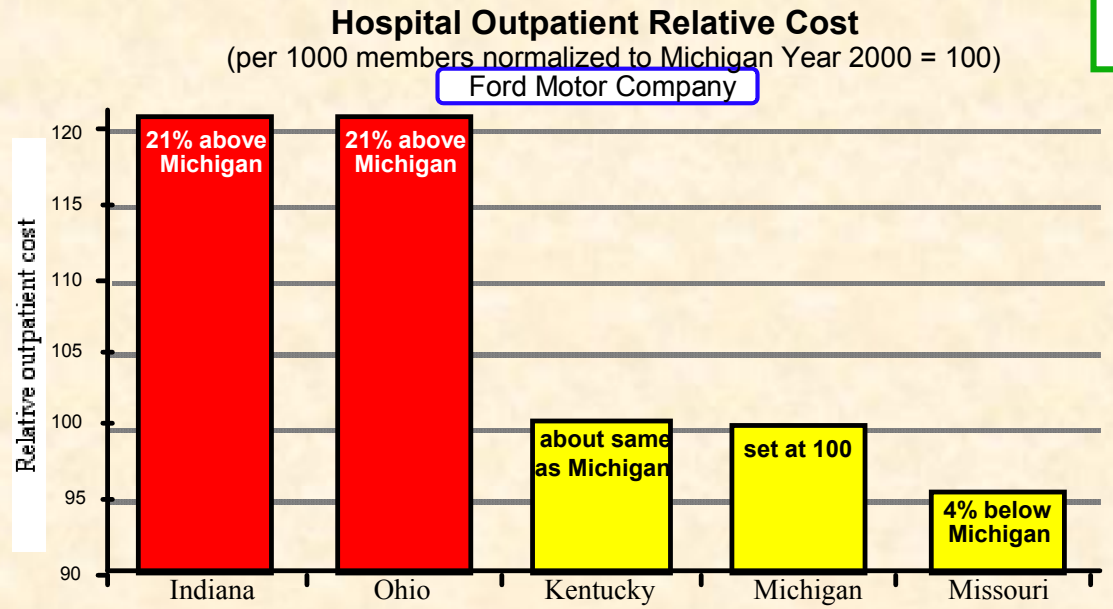




Big-Three Automakers Health Care Costs non-CON vs. CON states

about 20% less

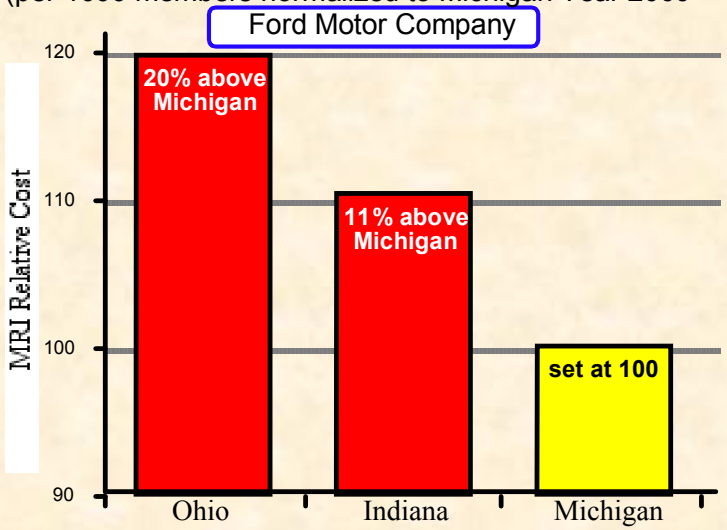
CON states have lower health care costs than non-CON states!

Big-Three Automakers Health Care Costs non-CON vs. CON states

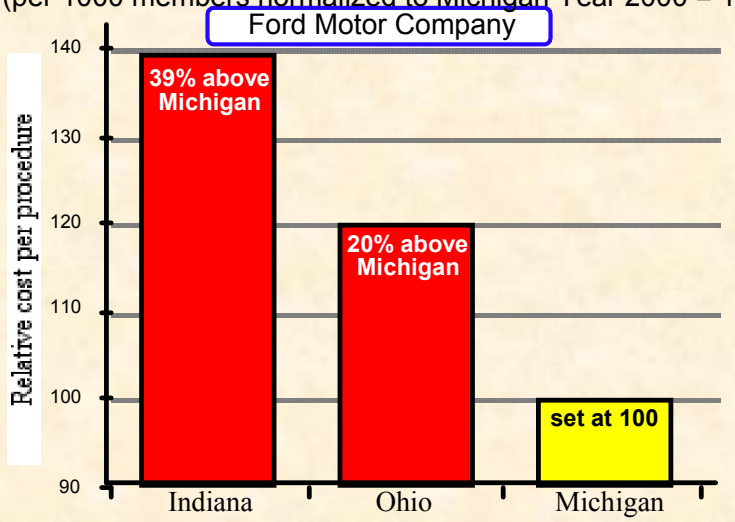
11-39% lower

CON states have lower health care costs than non-CON states!

Magnetic Resonance Imaging (MRI)
Relative Cost Per Service
(per 1000 members normalized to Michigan Year 2000 = 10(



Coronary Artery Bypass Graft (CABG) Surgery
Relative Cost Per Service
(per 1000 members normalized to Michigan Year 2000 = 100



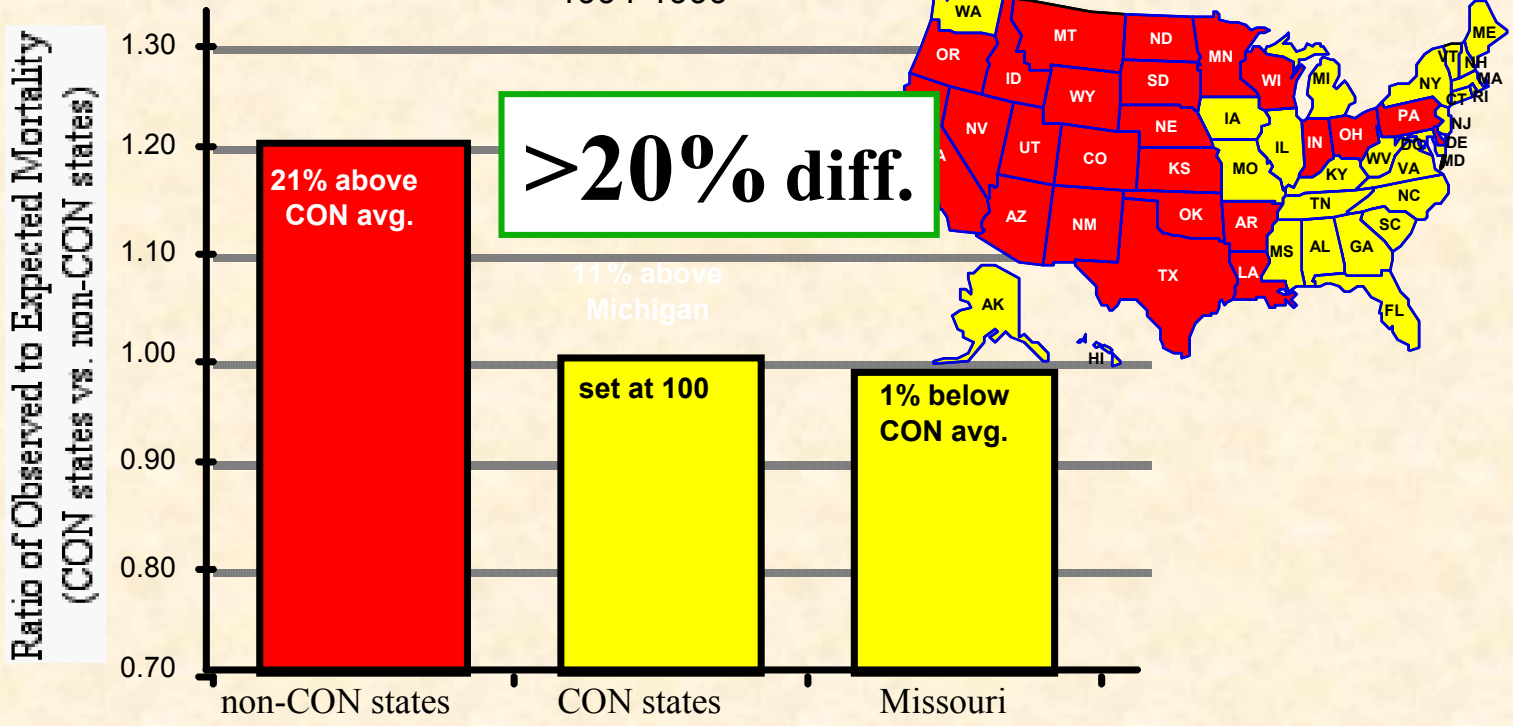
CABG Mortality
non-CON vs. CON states

Coronary Artery Bypass Graft (CABG) Surgery

Risk-Adjusted Mortality by State CON Regulation Status

Medicare Beneficiaries (65 years of age or older)

1994-1999



CON states have lower mortality for CABG surgery than non-CON states!

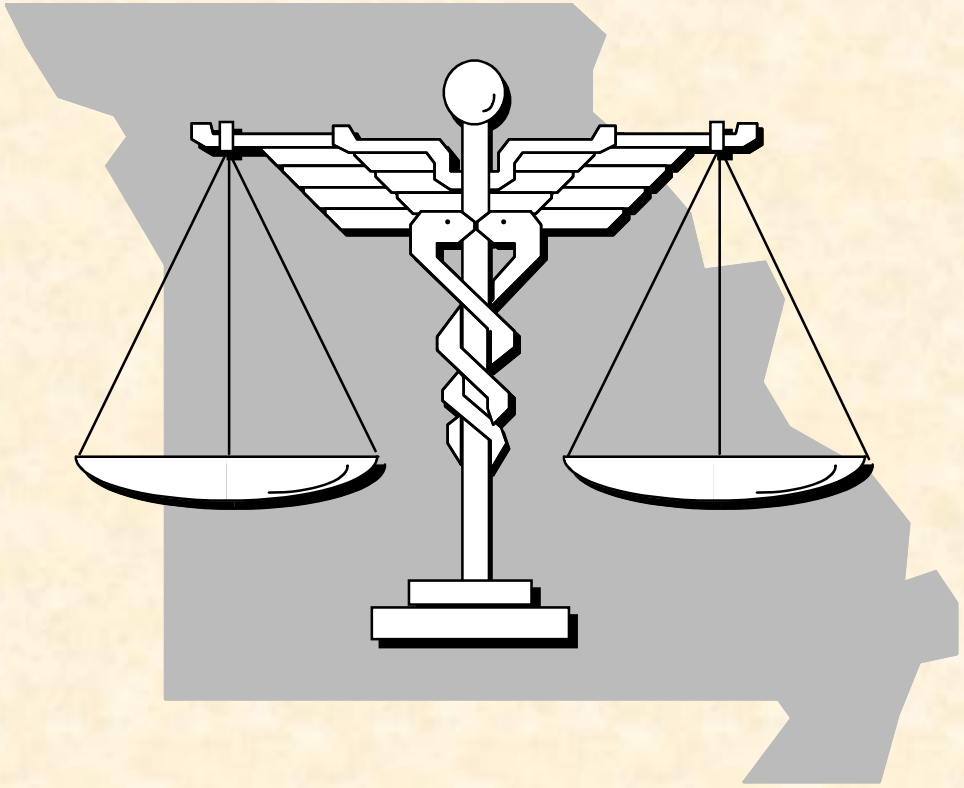
CON: Effective Community Regulatory Tool

- Planning-based, analytically-oriented, fact-driven
- Open process, with provision for direct public involvement
- Structured to compensate for market deficiencies and limitations and foster market efficiency
- Unlike licensure and certification with their leveling effects, designed to highlight and accentuate quality
- Promotes economic and quality competition within the context of health care market realities
- Practical and educational rather than ideological
- Doorway to excellence rather than barrier to market entry

Balance Regulation and Competition: Protect Community Interests

- Promote the development of community-oriented health services and facility plans
- Provide pricing and quality information to consumers so that they have an educated choice
- Provide a public forum to ensure that the community has a voice in health care

CON . . . promoting responsive planning,
evaluating health systems and reducing unnecessary health costs



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Certificate of Need: Protecting Community Interests

Thank you, any questions?